

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

CESAR LOPEZ,	)	Civil Action No. 4:20-cv-02049-SAL
	)	
Plaintiff,	)	
	)	
v.	)	<b>PLAINTIFF’S RESPONSE TO</b>
	)	<b>DEFENDANTS’ MOTION TO DISMISS</b>
COKER UNIVERSITY,	)	
	)	
Defendant.	)	
	)	

Pursuant to the Court’s Consent Order extending the deadline to file this Response, Plaintiff Cesar A. Lopez, through his undersigned attorneys, hereby responds to the Defendants’ Motion to Dismiss and requests that it be denied for the reasons set forth herein.

**I. Defendants’ Present Motion is Moot in Light of Plaintiff’s Amended Complaint.**

Plaintiff’s original complaint was filed in the Darlington County Court of Common Pleas on April 29, 2020. Defendants removed the action to this Court on June 1, 2020. (Dkt. No. 1). Thereafter, on June 5, 2020, Defendants filed their Motion to Dismiss for Failure to State a Claim, which was directed to Plaintiff’s original complaint. (Dkt. No. 4).

Pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure, Plaintiff thereafter filed as a matter course his First Amended Complaint. (Dkt. No. 10). Inasmuch as Plaintiff’s Amended Complaint is now the operable pleading in the case, Defendants’ motion to dismiss is rendered moot. A timely filed amended pleading supersedes the original pleading. *Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) (“As a general rule, ‘an amended case pleading ordinarily supersedes the original pleading and renders it of no legal effect.’” (citations omitted)). As a result, motions directed at the superseded pleading generally are to be denied as moot. *Hill v. Spartanburg Reg’l Health Servs. Dist. Inc.*, Civil Action No. 7:13-271-MGL-KFM, 2013 U.S.

Dist. LEXIS 76848, at \*1-3 (D.S.C. May 8, 2013).

In addition, certain Defendants named in the original pleading are not included in First Amended Complaint, and the claims alleged therein have been amended or eliminated in the First Amended Complaint. This further demonstrates that Defendant's motion to dismiss is moot and should be denied at this stage, without prejudice to Defendants' rights to plead or otherwise respond as they deem appropriate in response to the Amended Complaint, which is now the controlling pleading in the case.

WHEREFORE, Plaintiff respectfully requests that this Court deny as moot Defendants' motion to dismiss. *See Young*, 238 F.3d 567 at 572; *Hill*, Civil Action No. 7:13-271-MGL-KFM, 2013 U.S. Dist. LEXIS 76848, at \*1-3.

Respectfully submitted,

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June 26, 2020  
Charleston, South Carolina